

REMARKS/ARGUMENTS

Applicants have reviewed and analyzed the Office Action dated July 16, 2008, and provide the following remarks and comments in response thereto. Claims 1-8 have been cancelled without prejudice or disclaimer. Claims 9-12 and 15-26 have been amended and claims 29-42 have been added. No new matter has been added. Claims 9-42 are pending upon entry of the present amendment.

Claim Rejections Under 35 U.S.C. §101

Claims 17-26 stand rejected under 35 U.S.C. §101 because the claims are allegedly directed to non-statutory subject matter. Applicants have amended claims 17-26, thus rendering this rejection moot.

Claim Rejections Under 35 U.S.C. §103

Claims 1-3, 5-7, 9-11, 13-15, 17-19, 21-23, 25 and 28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Wharton *et al.* (U.S. Patent No. 5,831,664, “Wharton”) in view of Darbee *et al.* (U.S. Patent No. 6,130,726, “Darbee”) and Goldstein (U.S. Patent No. 5,410,326, “Goldstein”). Claims 4, 8, 12, 16, 20 and 24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Wharton, Darbee, Goldstein and Banker *et al.* (U.S. Patent No. 5,477,262, “Banker”). Claim 26 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Wharton, Darbee and Goldstein and further in view of Yen *et al.* (U.S. Patent No. 5,991,799, “Yen”). Claim 27 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Wharton, Darbee and Goldstein and further in view of Stautner *et al.* (U.S. Patent No. 6,172,677, “Stautner”). These rejections are respectfully traversed.

Amended independent claim 9 recites, *inter alia*, “receiving, subsequent to the selection of the program from the EPG, a signal from the control unit indicating a beginning of an interactive application during the selected program; and in response to the signal, providing a visual indication, through the mobile hand-held device, of an availability of the interactive application.” Nowhere do any of the cited references teach or suggest such features. For example, Goldstein describes indicating to a user that messages and/or other display information is available, but does not teach or suggest a visual indication of *an availability of an interactive application*. Goldstein’s message or other display information does not describe an interactive

application. Even assuming that an underlying mail application is needed to read the message in Goldstein, nowhere does Goldstein teach or suggest indicating the *availability* of the mail *application*. None of the other references cure these deficiencies of Goldstein. Accordingly, claim 9 is allowable for at least these reasons.

Amended independent claim 17 recites features similar to those discussed above with respect to claim 9 and is thus allowable for at least the same reasons as claim 9.

Claims 10-16 and 18-28 are dependent on claims 9 and 17, respectively, and are thus allowable for at least the same reasons as their base independent claim and further in view of the novel and non-obvious features recited therein. For example, claim 26 recites “whether an indication of the availability of the interactive application is provided to the display separate from the plurality of hand-held devices is configurable through the mobile hand-held device.” The Office Action asserts at p. 9, para. 7, that Yen describes a system wherein a user is provided the means to control whether information of interest to which the system is alerted is displayed on screen. Applicants respectfully disagree. The cited passages of Yen merely relate to the ability of a recipient to set an alert threshold or alert criteria so that scheduled programming causes a foreground element to transition from an engaging state to a nonengaging state. Col. 13, ll. 28-39. However, even in the nonengaging state, Yen states that selectable information items are displayed in an unobtrusive location on the screen. Col. 13, ll. 40-48. While a recipient may specify an alert threshold for interrupting items, Yen does not teach or suggest being able to configure whether an indication of the availability of the interactive application is *provided* to the display. Accordingly, claim 26 is allowable for this additional reason.

New Claims

Claims 29-42 have been added. No new matter has been added. Support for these claims can be found throughout the originally filed specification, claims and figures. Applicants respectfully submit that none of the cited references, alone or in combination, teach or suggest the features of claims 29-42.

CONCLUSION

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same. However, if for any reason the Examiner believes the application is not in condition for allowance or there are any questions, the Examiner is requested to contact the undersigned at (202) 824-3156.

Respectfully submitted,
BANNER & WITCOFF, LTD.

Dated: October 16, 2008

By: /Chunhsi Andy Mu/
Chunhsi Andy Mu
Registration No. 58,216

1100 13th Street, N.W., Suite 1200
Washington, D.C. 20005-4051
Tel: (202) 824-3000